Supreme Court, U. S.
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No. 75-712

In the Supreme Court of the United States

OCTOBER TERM, 1975

F. DAVID MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, APPELLANT

v.

HYMAN G. SILBOWITZ AND SHIRLEY H. SILBOWITZ

F. DAVID MATHEWS, SECRETARY OF HEALTH, EDUCATION, AND WELFARE, APPELLANT

v.

HYMAN G. SILBOWITZ

ON APPEALS FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

MEMORANDUM IN OPPOSITION TO MOTION TO AFFIRM

ROBERT H. BORK,
Solicitor General,
Department of Justice,
Washington, D.C. 20530.

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In response to appellees' motion to affirm, we adopt the arguments set forth in our Brief in Opposition to Motion to Affirm in *Mathews* v. *Goldfarb*, No. 75-699.[1] The *Goldfarb* case involves widower's benefits under Section 202(f) of the Social Security Act, as amended, 42 U.S.C. 402(f), while this case concerns husband's insurance

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[1] A copy of our opposition in *Goldfarb* is being furnished to appellees' counsel.

benefits under Section 202(c). Nevertheless, the analysis demonstrating the rationality of the proof-of-dependency eligibility requirement is essentially the same in each case. Accordingly, for the reasons set forth in the *Goldfarb* opposition, and the jurisdictional statement herein, probable jurisdiction should be noted.

Respectfully submitted.

ROBERT H. BORK,
Solicitor General.

FEBRUARY 1976.